

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 19163
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On August 1, 2005, the staff of the Income Tax Audit Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination [Redacted] (taxpayer) proposing income tax, penalty, and interest for the taxable year 2000 in the total amount of \$16,851.

On September 28, 2005, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request a hearing but rather chose to rely upon the additional information previously submitted. The Tax Commission, having reviewed the file, hereby issues its decision.

The Income Tax Audit Bureau (Bureau) received information on the sale of property located in Idaho. During its research of the sale, the Bureau found that the seller, the taxpayer, did not file an Idaho individual income tax return for the year of the sale. Idaho Code section 63-3026A (3)(ii) states that income shall be considered derived from or relating to sources within Idaho when such income is attributable to or resulting from the ownership or disposition of any interest in real or tangible personal property located in Idaho.

The Bureau sent the taxpayer a letter asking about the sale of the Idaho property and her requirement to file an Idaho income tax return. The taxpayer did not respond. The Bureau sent follow-up letters to the taxpayer but never received a response. The Bureau determined the taxpayer was required to file an Idaho income tax return and prepared a return for the taxpayer based upon the information available. The Bureau sent the taxpayer a Notice of Deficiency Determination, which the taxpayer protested.

The taxpayer stated that the Bureau failed to include her basis in property in its tax computation. The taxpayer provided a copy of her federal Schedule D as evidence of her basis in the property. The Bureau modified its audit report and sent a copy to the taxpayer for acceptance and withdrawal of her appeal. Again, the taxpayer did not respond. The Bureau continued its attempts to contact the taxpayer but made little progress. Eventually, the taxpayer provided a complete copy of her 2000 federal income tax return. The Bureau reviewed the return and made further modifications to its audit report reflecting the taxpayer's nonresident portion of her standard/itemized deductions and personal exemptions. The Bureau sent the taxpayer the second modified audit report and a withdrawal of appeal form. However, as before, the taxpayer failed to respond. Consequently, the Bureau referred the matter for administrative review.

The Tax Commission sent the taxpayer a letter discussing the modifications to the Notice of Deficiency Determination and giving her two options for presenting any additional information she wanted considered. The taxpayer failed to respond, so the Tax Commission called her representative and left a message for him to confirm acceptance of the final modification. The taxpayer's representative never returned the call. Therefore, the Tax Commission reviewed the file and issued its decision based upon the information available.

The taxpayer is a nonresident of Idaho. In 2000 she sold property located in Idaho. The Idaho Code is clear in section 63-3026A (3)(ii) that income resulting from the disposition of real property in Idaho is Idaho source income. Idaho Code section 63-3030 sets the filing requirement thresholds for individuals having Idaho source income. The threshold for nonresident individuals for tax year 2000 was \$2,500. Therefore, if the taxpayer realized a gain from the sale of the Idaho property in excess of \$2,500, she was required to file an Idaho income

tax return. The taxpayer's gain on the sale was greater than the filing threshold; therefore, the taxpayer was required to file an Idaho individual income tax return for the tax year 2000.

The Bureau prepared a return for the taxpayer, and in its final modification the Bureau made allowances for the taxpayer's basis in the property, for the Idaho capital gains deduction (Idaho Code section 63-3022H), and for the taxpayer's prorated share of her standard deduction and personal exemption (in this case 100%). The taxpayer did not challenge the Bureau's last determination of taxable income. The Tax Commission reviewed that determination and found it to be an accurate representation of the taxpayer's Idaho taxable income. Therefore, the Tax Commission finds that the taxpayer was required to file a 2000 Idaho individual income tax return and that her Idaho income tax liability was correctly determined by the Bureau.

WHEREFORE, the Notice of Deficiency Determination dated August 1, 2005, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2000	\$1,765	\$441	\$666	\$2,872

Interest is calculated to April 15, 2007.

An explanation of the petitioner's right to appeal this decision is included with this decision.

DATED this _____ day of _____, 2007.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2007, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]
[REDACTED]

Receipt No.
